



MEETING MINUTES

BOARD OF SUPERVISORS, COUNTY OF MONO

STATE OF CALIFORNIA

Regular Meetings: The First, Second,
and Third Tuesday of each month

REGULAR MEETING

County Courthouse
Bridgeport, California 93517

November 13, 2007

9:00 a.m. Meeting Called to Order by Chairman Hazard

Pledge of Allegiance led by Supervisor Hunt

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

No one spoke.

BOARD MEMBER REPORTS

Supervisor Reid reported on the following issues and activities:

1. No report; Supervisor Reid was absent.

Supervisor Hunt reported on the following issues and activities:

1. Attended a meeting at the Mammoth Lakes fire station to discuss a grant the Chief is writing.
2. The Sierra Nevada Conservancy will meet in December to discuss the first round of grant applications. The fire department application will be considered in the second round.

Supervisor Bauer reported on the following issues and activities:

1. No report; Supervisor Bauer was absent.

Supervisor Farnetti reported on the following issues and activities:

1. Attended the meeting at the Mammoth Lakes fire station to discuss the grant. The project will run over three years.
2. Attended the meeting on Thursday regarding the proposed ski-back trail in Mammoth Lakes. Most of the comments were negative; there are several concerns. The trail would be about 7,400 feet long beginning at the maintenance garage near Chair 4. This issue was also presented on Wednesday at the Town Council meeting; community members at this meeting were very supportive. The proposed trail will not solve the congestion problem but will be an alternative.

Chairman Hazard reported on the following issues and activities:

1. Attended the Farm Bureau dinner in Bishop on Friday.
2. Held office hours in Chalfant on Friday morning; nothing to report. There has not been a lot of feedback on the White Mountain Estates project.
3. Met with the Grand Jury yesterday regarding the Jim Lovett investigation. Provided background information to them; the interview process seemed fair.

COUNTY ADMINISTRATIVE OFFICE

- 1) CAO Report regarding Board Assignments (**David Wilbrecht**)
RECOMMENDED ACTION: Receive brief oral report by County Administrative Officer (CAO) regarding his activities.

David Wilbrecht reported on the following issues and activities:

1. Met with Supervisors Farnetti, Hunt and Bauer to discuss a grant application being submitted for fire reduction.
2. AOC negotiations continue to move forward. The land exchange has been completed.
3. Met with several County administrators who work with communications to discuss ways to improve the communication systems.
4. Continue working on the implementation strategy for the Novus (agenda) software.
5. The design for Sierra Center Mall should be completed by the end of the month.
6. Attended an ESTA meeting; ESTA decided to move forward with recruiting for an executive director.
7. Participated in a phone call involving administrators from various counties and CSAC. Health care reform is going to be a big topic.
8. Regarding holiday recognition, will continue with past practice and hold a holiday lunch in both the North County and South County. The lunch will be held on December 11th in the North County and December 12th in the South County. Will also send holiday cards but have moved away from buying holiday gifts. However, would like to move forward with purchasing lapel pins, which will be distributed during the holiday events. The remainder of the pins will be used for tourism purposes and other purposes to enhance the County.

CLOSED SESSION

***Closed session from 9:02 a.m. through 9:30 a.m.; reconvened at 9:30 a.m.
Break from 9:46 a.m. through 10:00 a.m.; reconvened at 10:00 a.m.***

- 2) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property: 107655 Highway 395, Walker, CA. Agency negotiators: Ann Gimpel, Dave Wilbrecht, Brian Muir, and Marshall Rudolph. Negotiating parties: Mono County and Mr. Chichester. Under negotiation: price.
- 3) CONFERENCE WITH LABOR NEGOTIATORS. Government Code section 54957.6. Agency designated representative: to be announced. Unrepresented employees: county counsel and county administrator.

- 4) PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Counsel.
- 5) PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Administrator.

The Board had nothing to report from closed session.

DEPARTMENT REPORTS/EMERGING ISSUES

Lynda Roberts reported on the following:

1. Distributed the results of a survey taken by poll workers after the November 6th election; 10 out of 18-20 poll workers responded. The feedback was very positive, and the elections office will review the suggestions and consider how to best implement them.

Mary Booher reported on the following:

1. Addressed the issue of health care reform; presented talking points for the Board to take to the CSAC meeting this week. She pointed out the potential cost to the County. A lot could happen in the next 2-3 weeks.

Ed Zylman reported on the following:

1. Regarding a federally-funded program called WIA (a program that trains people for employment), there is a County-appointed person who attends the meetings and represents both Mono and Inyo Counties. This person said he is planning to resign from the board, but has not yet resigned nor is he attending the meetings. Zylman suggested that the Board of Supervisors appoint another individual; this issue needs to be resolved as soon as possible. Chairman Hazard suggested putting this issue on a future agenda for action.

Scott Burns reported on the following:

1. Distributed information pertaining to the White Mountain Estates project that will be discussed at the adjourned meeting on November 20, 2007. The specific plan and impact report have been reviewed by the Planning Commission; a field trip may also be helpful. The Board said they would like to take a field trip prior to the adjourned meeting.

Sheriff Scholl reported on the following:

1. Recently held first-aid and CPR training for field personnel; also included training on the automatic defibrillator device.
2. The patrol force is at full staff. Working on getting additional staff for the jail; had 26 applicants for 4 positions. There are really good candidates.
3. Dan Paranick (member of the Sheriff's Association) will be a good advocate for rural counties.

CONSENT AGENDA

MENTAL HEALTH

- 6) Appointment of New Member for the Mono County Alcohol, Drug, and Mental Health Advisory Board
- M07-261 ACTION:** Update the membership roster of the Mono County Alcohol, Drug and Mental Health Combined Advisory Board as follows: Appoint Robert Singer, Ph.D., to a three-year membership term that will expire on 07/13/10.
(Hunt/Farnetti, 3-0; Bauer and Reid absent)

REGULAR AGENDA

CORRESPONDENCE RECEIVED (INFORMATIONAL)

All items listed are available for review and are located in the Office of the Clerk of the Board

#	Received	Dated	From	Subject
7)	10-31-07	10-29-07	David S. Baumwohl	Mammoth Mountain Ski Area and June Mountain Ski Area property tax appraisals request for information (1997 and 2005).

Supervisor Farnetti said the confidentiality concern raised in this letter is a non-issue. Marshall Rudolph, County Counsel, agreed and said he respectfully disagreed with the letter. He said this issue can ultimately go to court and they can sort it out. Chairman Hazard acknowledged receipt of the correspondence.

HEALTH AND HUMAN SERVICES AND COUNTY ADMINISTRATIVE OFFICE

- 8) Approval of an Amendment to Lease Between Mono County and the Minaret Village Shopping Center for Office Space Used by the Department of Health and Human Services **(Tom Wallace, Rita Sherman, Mark Magit)**
- ACTION:** (1) Review, and potentially approve, a first amendment to a lease between the County of Mono and the Minaret Village Shopping Center for office space used by the Health and Human Services Department, extending the present lease through September 30, 2010, on the same terms and conditions set forth in the original lease except as modified by the first amendment to the lease. (2) Authorize the Chair of the Board to execute the first amendment to lease. (3) Provide any desired direction to staff.

Mark Magit: The Department of Health and Human Services has been leasing office space, however, the initial term expired; the new term will be for another three years. The rent is \$2,600 per month, increased annually by four percent, plus monthly common area maintenance expenses estimated at \$1,248 per month. Magit recommended that the Board enter into this lease.

Rita Sherman said the term of the lease will be for six years. Supervisor Farnetti said the lease as submitted is confusing. David Wilbrecht, CAO, suggested bringing this item back to the Board for approval at a future meeting.

MENTAL HEALTH

- 9) Lease for MHSA Socialization and Wellness Center **(Ann Gimpel)**
M07-262 **ACTION:** Approve County entry into a proposed one-year contract with David Digerness for expansion of rental space for the MHSA Socialization and Wellness Center in Mammoth Lakes and authorize the Board Chair to sign said contract on behalf of Mono County, in an amount not to exceed \$10,500.
(Farnetti/Hunt, 3-0; Bauer and Reid absent)

Ann Gimpel: The wellness center has been a big success, thus resulting in the need for more space. The proposed lease will add an additional 600 square feet to the current rental space; the cost is \$1.25 per square foot.

COMMUNITY DEVELOPMENT

- 10) Rock Creek Canyon Planning and Environmental Contracts **(Scott Burns, Gerry Le Francois)**
M07-263 **ACTION:** Authorize Chair's signature on contract with Bauer Planning and Environmental Services, Inc. at a cost not to exceed \$132,500.00, subject to minor changes; all contract funding to be provided by the project applicant, John Hooper.
(Hunt/Farnetti, 3-0; Bauer and Reid absent)

Gerry Le Francois: This is a contract for environmental services at the old Paradise Lodge and Resort site. Le Francois received last-minute changes so he recommended that the contract be subject to approval by the Risk Manager; the project will be funded by the proponent. The consultant will perform the following:

- Initial Consultation
- Project Scoping
- Public Noticing
- EIR
- Response to Public Comments

This project is adjacent to the CNL project; it will be on both sides of the highway.

PUBLIC HEARING—COMMUNITY DEVELOPMENT

- 11) Sierra Business Park Specific Plan Amendment #1 (**Larry Johnston**)
R07-79 ACTION: Adopt **Resolution R07-79** amending the Sierra Business Park Specific Plan to: (1) allow up to, but no more than, six total caretaker units on the property; (2) modify parking standards to be in accordance with the Mono County Land Use Element, Chapter 06: Development Standards—Off-Street Parking; and (3) clarify snow storage to be in accordance with Mono County Land Use Element Chapter 04 Section 4.30, Snow Storage Requirements at a 25% ratio.
(Farnetti/Hunt, 3-0; Bauer and Reid absent)

Larry Johnston: This is a staff-initiated amendment based on requests for additional caretaker units. He highlighted the following:

- There are three changes: a change in the allowable number of caretaker units from two to six in the entire park; a modification to the parking requirements to meet current code; and clarification about snow storage requirements (to default to the County's requirements).
- Caretaker units. Two units are currently allowed in the business park; both have been used by an existing use. Have had requests from two mini-storage proponents requesting two units each. Regarding concerns about sewage flow and families with children living in close proximity to industrial-type uses, the additional units will be within sewage allocations and the owners' association of Sierra Business Park passed a resolution that would prohibit children from living in the units. The Planning Commission felt comfortable with this.
- Parking. The requirement of two spaces per 1,000 square feet is excessive; suggest using the current code which has more flexibility in the parking requirements.
- Snow storage. Suggest defaulting to the ordinance which specifies how much and where to store snow; the 25% standard applies to this business park.
- This issue has gone through a hearing and the Planning Commission.

Chairman Hazard asked about a location for overflow parking—would the default requirements provide adequate parking? Johnston said each project would theoretically meet the parking requirements, plus the street can be considered overflow parking. The ordinance also addresses parking for office uses.

Supervisor Hunt asked how the snow storage requirement is determine. Johnston said it depends on the location in the County; the requirement is based on elevation and historic snowfall records. For instance, June Lake would require a higher standard than Chalfant.

Chairman Hazard opened the public hearing.

Jennifer Dorgan, representing Greens Storage LLC, thanked and commended the Board for actions taken thus far regarding the Sierra Business Park. The issues discussed today will also assist the project in moving forward. She said County staff members have been very helpful during this process.

There were no other public comments.

Chairman Hazard closed the hearing. Supervisor Hunt expressed his support for this amendment.

Adjourned at 10:45 a.m. for Housing Authority Meeting; reconvened at 11:12 a.m.

~ LUNCH RECESS ~

Break from 11:12 a.m. through 1:00 p.m.; reconvened at 1:00 p.m.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

No one spoke.

BOARD OF SUPERVISORS

12) Proposed Critical Habitat for the Bighorn Sheep (Bob Williams, U. S. Fish and Wildlife Service)

ACTION: (1) Receive update about the proposed critical habitat for the bighorn sheep. (2) Ask questions as needed. (3) Provide direction to staff.

Bob Williams addressed the Board:

- Attended this meeting to answer questions about the proposed critical habitat. Will talk about the proposed rule and what was in the notice published in the Federal Register; actions being taken at this point are driven by the courts. Need to focus questions around the rule, which applies to the critical habitat.
- The notice was first released to the public in July through the Federal Register.
- Have held workshops and hearings for the purpose of receiving comments. Will answer questions today.
- Introduced Marcie Hayworth, staff biologist.

Audience Questions and Comments (Williams' responses are listed on the next page):

- It seems possible within the laws that this designation isn't necessary because of overlapping specific plans and conservation plans, plus the critical habitat is mostly on federal lands. This issue was brought on by a potential lawsuit and this is a settlement. Can government lawyers counteract this action?
- The Federal Register notice has several pages dealing with the taxonomy of this sheep. But genetically the bighorn sheep in this area can't be distinguished.
- Why do about 300 sheep need 415,000 acres? What extra leverage will this designation give on private lands?
- Many of the stockmen have thousands of acres of private lands, even more than forest service lands.
- Has the Fish and Wildlife Service figured out the carrying capacity?
- If the critical habitat is designated, would land owners risk prosecution when engaged in ordinary uses?
- Is it true this will modify a habitat not covered by the 1973 law?
- How much influence do local government bodies have in terms of adopting resolutions?

- Have been assured there is no need to worry about recreational uses, but the Federal Register indicates that all activities can be reviewed and permits required, besides those required by the federal agencies for management.
- The issue of buffer zones has not been addressed. If 96% of the sheep are being killed by mountain lions, what is the control on them?
- Is there enough information about migratory movement to notify grazers when a ram is approaching an area with domestic sheep?

Williams' Responses:

- Lawyers did fight this case, but environmental groups "attacked" under the Endangered Species Act. Until congress changes the law, the government is vulnerable to these kinds of cases. This is a biologically based, best proposal to designate a minimum amount of critical habitat for the species. Have gathered seven years of information to help establish a critical habitat.
- Fish and Wildlife Service will read information about taxonomy, but when using it, will only use information published in peer-reviewed journals.
- The amount of acreage was identified by biologists and by working with the recovery team. Regarding leverage, the majority of the regulatory requirement with this species came in the year 2000. This requires the land management agencies to consult with Fish and Wildlife Service to make sure new permits are issued in consideration with this species. The process is not without public information and input. The majority of the regulatory impacts came at the time of listing. Activities are reviewed for their potential impact to the species and the critical habitat; need to know more about the various effects of recreation. The next time the Forest Service proposes a land-use amendment, they will have to consider activities in light of the Sierra Nevada Bighorn Sheep.
- Regarding impact to private lands, it is hard to draw the lines without capturing private lands in the middle. Fish and Wildlife Service, along with the Forest Service and BLM, will manage bighorn sheep so they don't come onto private land. Impact to private lands won't be an issue as long as there is distance.
- Use is based on carrying capacity for each unit (the numbers are in the recovery plan). An economic analysis is in the process of being finalized, and will be released in the Federal Register; the public will have the opportunity to comment again. Will move into finalizing the rule by July.
- Fish and Wildlife Service tries not to let politics be involved. Will use the economic analysis and comments received from the counties and private citizens. Want critical habitat to be real in terms of what is necessary.
- Regarding risk of prosecution when engaged in ordinary uses, as long as the activities don't go outside private land and impact the sheep, then it is not a problem.
- Critical habitat law came about in 1978.
- Since mountain lions are a threat to the sheep, agencies are actively managing them. Regarding buffers, the agency believes the units of critical habitat are big enough that animals will move within those areas.
- Activities permitted on public lands, such as recreation, need to be considered in order to obtain more information about potential effects. The agency believes it will find that human activities (i.e. recreation) are fairly compatible with management. However, since the agency doesn't know for sure, they need to review uses and want the public to help by providing information.

- Regarding notifying grazers about the location of rams, the agency has been trying to do this, and it seems to be working. They are close to finding a workable situation.

Board of Supervisors' Questions and Comments:

- Supervisor Farnetti: There seems to be concern about how the boundaries were determined. The allotments in Mono County seem to be such a small portion of the proposed habitat—why were these areas included? Also, in these areas there are only about 40 sheep in the herd.

Williams: The determination was made using a variety of criteria and considering critical times of the year for the species. Fish and Wildlife Service tried to capture enough habitat within the boundary to include the year-round cycle of the species; primarily focusing on ewes and lambs (the habitat for rams would have been much bigger). The goal is to capture enough habitat to have long-term persistence of the species so it can be de-listed at the federal level.

- Chairman Hazard: It is hard to believe that including four of the six allotments will impact the recovery of the sheep. It seems as though these areas were included simply based upon elevation. Hazard requested that Fish and Wildlife Service look at overlapping allotments to consider whether or not they are truly needed as critical habitat. He also asked to have the overlaps identified and have documents specify why the areas are needed.

Williams: Fish and Wildlife Service would consider these requests if they receive comments, information and requests for exclusion with some biological justification. Part of the rulemaking process is the exclusionary process. They have been in consultation about many of the allotments in this area, and are trying to negotiate a compromise. As the herd expands, BLM will have to consult about the use of allotments. Whether it is better to keep the allotments in or out will be considered from a long-term perspective.

Hazard: Can Fish and Wildlife Service look at moving the borders outside the allotments, and ask BLM to evaluate best-management practices? Constituents are currently working with Fish and Wildlife, but can't get this question formalized because of the pending designation. This may be a small area that doesn't have an impact to the critical habitat, but it does impact Mono County and local economics.

Williams: Most people believe that activity will stop once the line is drawn; this is not the case. Those activities are modified but move forward; rarely has a project been stopped.

Hazard: History seems to not be in favor of local issues. If the land is captured, it is gone. The issue of allotments needs to be specifically addressed and justified for taking.

Williams: These comments will be fully considered.

Hazard: Does the economic analysis consider issues of grazing and recreation, or just what is found in the habitat?

Williams: The economist has interviewed individuals in the various sectors.

Hazard: Regarding taxonomy designation and habitat, are these two separate issues or does one influence the other? Habitats in two of the allotments are not year round, nor are they sustainable for the bighorn; it appears that the herd is struggling. What makes it logical for them to have a larger allotment?

Williams: As it relates to the rule, taxonomy and habitat are separate. The agency is clearing up taxonomy questions, and will entertain new studies on that part of the rule. Regarding the struggling herd, there are problems with the two units—the agency doesn't know what has happened to the population. The critical habitat proposal represents the best thinking of the recovery team and scientists, and the security between the units.

Marcie Hayworth: Populations go up and down; it is a new herd in the area so there is movement between Mt. Warren and Mt. Gibbs. The agency wants many herd units to be spread out.

Hazard: It seems as though the taxonomy and habitat issues play off each other and could bring more regulations. The agency should get the funding and manpower to do the necessary studies. The critical habitat needs to be done in a balanced approach, and not shifted to the local level.

Williams: There is collaboration amongst various groups; the agency wants to be a good partner with the County and local citizens.

Hazard: There is a perception that disease and habitat have been linked together because disease justifies habitat. Disease management should be separate from habitat. Asked Williams to look at this issue as separate and distinct.

Williams: Until there is more evidence, the agency will err on the side of the species.

- Supervisor Hunt: Share concerns about recreational impacts. The Mount Williamson unit has been in operation for 15 years, and this should give base information about impacts. How will the body of knowledge be applied on the ground? Is there flexibility in the restrictions? What does the critical habitat designation really mean to recreation?

Williams: If sheep move outside the herd unit, the agency will manage them back into the unit. The proposal was narrowed to what is believed to be necessary for long-term persistence. The recovery team and plan are based on adaptive management; as the agency gets more information about the effects of recreation, it will work actively with the Forest Service to lift restrictions. Have a committed science and recovery team, and stakeholders team so concerns are expressed and information shared to actively manage the species.

ECONOMIC DEVELOPMENT AND SPECIAL PROJECTS

13) Proposed Designation of Critical Habitat for the Sierra Nevada Bighorn Sheep by the U.S. Fish and Wildlife Service (**Dan Lyster**)

ACTION: (1) Review the attached draft resolution regarding the proposed designation of critical habitat for the Sierra Nevada bighorn sheep by the U. S. Fish and Wildlife Service. (2) Provide comment and direction to staff for possible revision thereto. (3) Direct the Clerk of the Board to schedule the final resolution for the November 20, 2007, meeting of the Board of Supervisors.

Dan Lyster: This is the first attempt to encapsulate some of the information from previous hearings conducted by Fish and Wildlife Service. The resolution can be changed as the Board finds necessary. Lyster attempted to make this draft short in order to retain the impact. Also, Supervisor Reid wants to comment next week prior to its final adoption.

George Milovich: Distributed copies of the Inyo resolution, which addresses points raised at this meeting. Fish and Wildlife did not contact Milovich about economic impacts. The concern about boundaries impacting allotments was also raised in Inyo; the allotment areas represent only about 2-3% of the proposed habitat. The disease factor is an element that continues to surface when control of land and allotments are discussed. If people lose the federal land allotment and can't continue operating solely on private land, the County will lose the industry. The issue needs to be weighed evenly. The Inyo Board wants to continue and promote protection of bighorn **and** the permitted uses.

Supervisor Farnetti made the following suggestions regarding the proposed resolution:

- Asked about the reasoning for including section one ("This Resolution shall serve as a formal request to the U.S. Fish and Wildlife Service that the Mount Gibbs and Mount Warren Herd Units of the proposed designation of critical habitat for the Sierra Nevada bighorn sheep be removed from such designation"). He would like to find a balance between people with grazing rights so they can continue with existing activities yet provide protection for the bighorn sheep.

Dan Lyster responded: Since there are only 32 animals, they don't seem to be successful in these two areas; the concentration is larger in the other herd units.

- Would like to see the word "recreation" used in Section Three.

Supervisor Hunt made the following suggestions:

- Would like to lead off the resolution showing concern for the sheep (as presented in the Inyo resolution).
- Section Two: reword the last sentence, "to be **considered** for removal".
- Section Three: "That no restriction to public access be **necessarily** imposed...."

Based on these suggestions, the Board asked Lyster to present various options for consideration at next week's meeting.

Floyd Rathbun: As noted in the September 4th minutes, Supervisor Bauer asked if a genetic study would change the nature of this issue; Rathbun said he did not think she received an answer. He said a study would change the nature of the issue. He also made a comment relative to the habitat: two terms in the Federal Register regarding habitat are based on topography (elevation and steepness of slope), but don't specify whether the food required for the sheep is contained in the areas. Rathbun provided detailed notes about this issue, which are on file in the Clerk's Office.

ADJOURN: 2:30 p.m.

Mono County Board of Supervisors next regular session will be on **November 20, 2007**, at the hour of 9:00 a.m. in the Board Chambers, County Courthouse, Bridgeport, California.

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The Mono County Housing Authority
will meet in special session at 11:00 a.m.